



COMPETITIVE ENTERPRISE INSTITUTE

April 22, 2002

U.S. Department of Energy
FOIA/Privacy Act Division
1000 Independence Avenue, SW
Washington, D.C. 20585

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OTHER - 2 HOURS SEARCH FREE, 100 FREE PAGES
Pub Int 6/4

Dear Information Officer,

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, please provide me, within 20 days, all documents of the sort described herein in DOE's possession meeting the provided subject matter description, be they internal and/or external communications, including but not limited to memoranda, electronic mail, entry logs, appointment and telephone records, or other correspondence, or other documentation referencing the covered subject matter. "External communication" intends electronic and other correspondence to other offices of a governmental entity or private entities, and other information sent outside DOE but not fairly characterized as "public," for example not including brochures or public, published reports.

This request seeks all such material though it may not refer to the specified subject matter entity, meeting or event in precisely the same fashion or description. For example, enumerated item 1, *infra*, requests any document referencing or otherwise pertaining to the August 4, 1997 Oval Office meeting including Enron CEO Ken Lay, President Clinton and Vice President Gore, whether described instead as, *e.g.*, between "industry leaders" and Messrs. Clinton/Gore, "Kyoto Preparation" or "October Conference on Climate Change preparation," or whether or not each, *e.g.*, specifically references Ken Lay, or cites no date or a different but chronologically proximate date.

These parameters permit satisfaction of our request consistent with FOIA by allowing or accounting for preparatory as well as follow-up documents, differing descriptions, recording errors, *etc.* Please do not construe the enumerated, sometimes detailed attempts at providing information sufficient to allow an accurate offering of documents as either exhaustive, or requiring a particular document to cite all such identifying information, but instead as illustrative.

As detailed, *infra*, this letter constitutes a single request for documents relating to and/or citing Enron, and Enron's direct and/or indirect lobbying of and influence upon the Clinton-Gore Administration and its actions and/or energy

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and/or environment policies based in whole or part on the theory of catastrophic man-made global warming, "climate change," or the Kyoto Protocol ("Kyoto").]

Naturally, given the existence and nature of holdover personnel and other aspects of administration transitions the request includes documents up to the date this request is satisfied (see relevant Order in *Horner et al. v. USEPA*, D.D.C. 00-535). You will see, however, that this request details numerous specific sub-categories of documents satisfying this request, created on the basis of documents we have already obtained. The individual sub-categories or descriptions are merely intended to help focus EPA in its search and response. By the specificity of the descriptions, therefore, documents satisfying sub-categories 1-13 can be provided promptly.

Also given our provision of numerous specific sub-categories of documents satisfying the broader request, when responding to this request it would assist our communication if DOE identifies each document responsive to one of the 15 enumerated descriptions or sub-categories in this request by reference to the enumerated description which it satisfies. For example, if the Department Tracking Number is "HQ-RIN-02-1234", in future communications we will at the end cite that category to which we or a document refer, e.g., "HQ-RIN-02-1234 (12)", referring to that described in sub-category 12, and request DOE do the same. If a document satisfies more than one sub-category, identifying any of those sub-categories suffices.

Clearly, as such this letter also requests that DOE not withhold documents beyond the statutorily prescribed date for satisfying this request on the grounds that the larger search, i.e., to satisfy sub-category 14, has yet to be completed. Again, the specificity provided in 1-13, *infra*, should facilitate the search for and prompt provision of documents in discrete subdivisions.

This request covers only DOE's Washington DC office(s).

The relevant timeframe of this request is January 1, 1993, to present.

Subject Matter: Please provide all preparatory, follow-up, analytical or other documents addressing, citing or otherwise relating to the following entities, meetings or events. Any attachments cited or referred to by documents meeting each request are considered included in each request:

- 1) An August 4, 1997 meeting in the Oval Office between, *inter alia*, Enron Chief Executive Officer Ken Lay and President Clinton and Vice President Gore, addressing the theory of man-made climate change, possible Clinton Administration initiatives citing or based upon this theory, and the upcoming (December 1997) international treaty negotiations in Kyoto, Japan. Other CEOs scheduled to attend the meeting at issue in this request included those from BP (or British Petroleum), Alcoa, Solomon Brothers, Bethlehem Steel, American Electric Power (AEP), Pacific Corporation, Honeywell, and FMC. This meeting addressed the lobbying/policy desires of industry participants such as Enron and BP and is relevant for the Clinton Administration's response to same.

2) A late July 1997 meeting for certain invited industry participants hosted by the White House, including President Clinton and Vice President Gore, presenting scientific information and/or the Clinton Administration case or basis for policy action to address purported man-made climate change. This meeting addressed the lobbying/policy desires of industry participants such as Enron and BP and is relevant for the Clinton Administration's response to same.

3) Regional conferences in 1997-98 as part of an outreach campaign by the Clinton Administration on the theory of man-made climate change, including certain Cabinet officials. These meetings addressed the lobbying/policy desires of industry participants such as Enron and BP and are relevant for the Clinton Administration's response to same.

4) The October 1997 Clinton Administration/White House Conference on Climate Change hosted by President Clinton. This meeting addressed the lobbying/policy desires of industry participants such as Enron and BP and is relevant for the Clinton Administration's response to same.

5) Meetings or deliberations of the President's Council on Sustainable Development. These meetings addressed the lobbying/policy desires of industry participants such as Enron and BP and are relevant for the Clinton Administration's response to same.

6) A February 20, 1998 meeting between, *inter alia*, Enron CEO Ken Lay and Energy Secretary Federico Pena. Others in attendance, who's records should also be specifically searched, include Dan Adamson (Special Assistant to Deputy Energy Secretary Betsy Moler), and L.G. Holstein (Pena Chief of Staff). This meeting addressed Enron's lobbying/policy desires regarding the Clinton Administration's approach to restructuring the electricity system, specifically legislative positions and strategies and whether to include "climate change" policies in any such effort, and is relevant for insight it may provide into the Clinton Administration's response to same.

7) Enron CEO Ken Lay's February 20, 1998 correspondence to President Clinton "to ask for [Clinton's] personal involvement in passing [electricity] legislation..." This letter addresses the lobbying/policy desires of industry participants such as Enron and is relevant for the Clinton Administration's response to same. Clearly, this description does not specifically seek the letter, but documents addressing, citing or otherwise relating to this correspondence, its request, and reception/impact.

8) The "Clean Power Group," consisting of, *inter alia*, Enron, El Paso, Calpine, NiSource, PG&E National Energy Group, and Trigen Energy, coordinating with and/or served also by Environmental Defense or "ED", Natural Resources Defense Council ("NRDC"), Clean Air Task Force, Sierra Club, Mr. Joel Bluestein, and the following industry trade groups: "EPSA", INGAA, Gas Turbine Association, Solar Energy Industry Association, American Wind Energy Association, "NAESCO", American Gas Association, Business Council for Sustainable Energy, and U.S. Combined Heat and Power Association. This coalition addressed the lobbying/policy desires of industry

participants such as Enron and documents referencing them are relevant for the Clinton Administration's response to same.

9) An entity variously styled as the Business Council for Sustainable Energy, Business Council for a Sustainable Energy Future, and/or Business Council for a Sustainable Environment, including any manifestation of a group similarly styled though its name begins with "European...". This coalition(s) in which Enron played a determinative role addressed the lobbying/policy desires of industry participants such as Enron and documents referencing them are relevant for the Clinton Administration's response to same.

10) The Pew Center on Global Climate Change, Eileen Claussen of Pew and/or Pew's Business Environmental Leadership Council. This coalition addressed the lobbying/policy desires of industry participants such as Enron and documents referencing them are relevant for the Clinton Administration's response to same.

11) An entity styled as the President's Council of Advisors on Science and Technology, or "PCAST". This Council addressed the lobbying/policy desires of industry participants such as Enron and documents referencing them are relevant for the Clinton Administration's response to same.

12) Referencing (now former) Enron employee John Palmisano. This individual was tasked with impacting Enron's lobbying/policy desires and documents referencing him are relevant for the Clinton Administration's response to same.

13) Referencing any and all meetings, correspondence and/or discussions between Enron employees John Palmisano and/or Mark Schroeder, and any of the following government officials: Dirk Forrester (DOE), Dan Reifsnyder (State Department), Howard Gruenspecht (DOE), T.J. Glauthier (OMB), Rafe Pomerance (State Department), David Doniger (EPA), David Gardiner (EPA), Rob Walcott (EPA), William White (EPA), Nancy Kete (EPA), Joe Kruger (EPA), Jane Leggett-Emil (EPA), and Lisa Carter (EPA). This request specifically but in no way solely requests information regarding specific discussions which we are aware occurred during the first two weeks of October, 1997, during which time the Clinton Administration finalized its position for upcoming international treaty negotiations in Kyoto, Japan. Internal Enron documents assert that senior Enron staff met with these and other individuals for the purpose of effecting Enron's lobbying/policy desires and documents referencing them are relevant for the Clinton Administration's response to same.

14) All other documents citing Enron, or its employees or officers Ken Lay, Terry Thorn, Cynthia Sandherr, Jeffrey Keeler and/or Steven Kean, and either "climate change", "Kyoto," or "global warming." These individuals were at one time or another involved in advocating Enron's lobbying/policy desires and documents referencing them are relevant for the Clinton Administration's response to same.

15) All documents citing the Competitive Enterprise Institute and/or the Cooler Heads Coalition of which CEI is a member, and either "climate change", "Kyoto," or "global warming." These entities were active in opposing Enron's lobbying/policy desires and documents referencing them are relevant for the Clinton Administration's response to same.

In anticipation of one possible agency response, please understand that any requests seeking documents referencing Enron and a particular governmental office are not the equivalent of submitting a FOIA to that particular office. Therefore, any possible objection that a particular office may not be subject to FOIA is not relevant.

Request for Fee Waiver

In order to help you determine our status for purposes of determining the applicability of fees, you should know that the Competitive Enterprise Institute is a non-profit, tax exempt organization and that this request is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not for commercial use. CEI is routinely granted similar fee waiver requests by various federal agencies pursuant to FOIA. Therefore, I request a waiver of all fees. If this request is denied, I am willing to pay fees up to \$100. If you estimate that the fees will exceed this limit, please inform me first.

Further Information Justifying Fee Waiver

1) Interest in Information/Use for Information/Income Issues

CEI's interest in the documents derives from its efforts to educate legislators and the public on the science and economics regarding regulatory policies generally, and environment and "global climate" policies specifically.

Neither CEI nor any foreseeable party will derive economic benefit from the requested material.

2) Public Benefit/Contribution to Public Understanding

The requested information relates to the operation of government, particularly regarding the controversial area of instituting policies restricting the availability or affordability of energy.

The public will benefit through the dissemination of the findings and works produced as a result of the information received. This includes both the general public and the numerous state legislatures and other public policy organizations with which CEI works, and CEI's own publications and opinion pieces which receive broad distribution.

A fairly widespread portion of the public at large, as opposed to a narrow spectrum of individuals, will receive this benefit, first through CEI, then through the U.S. Congress' and State legislatures' ongoing efforts to the extent their inquiries utilize the information.

3) Specialized Use

No "specialized use" of the documents is anticipated outside of that described herein.

4) Dissemination of Information

CEI publish that upon which they work via print and electronic media, as well as newsletters to legislators, media and other interested parties. Those activities are in fulfillment of CEI's mission.

The information received will be disseminated through a) membership newsletters, b) opinion pieces published in national and local newspapers and magazines, c) in-house publications for dissemination, and d) to the extent Congress or States pursuing environmental education legislation find that which is received noteworthy, it will become part of the public record on deliberations of the legislative branches of the Federal and State Governments on the relevant issues.

I look forward to your responses.

Sincerely,



Christopher C. Horner



Department of Energy

Washington, DC 20585

June 7, 2002

RECEIVED BY BPA FOIA OFFICE THIS DATE: 6-13-02
DUE DATE: 7-12-02
LOG # 02-042

From: Sheila Jeter, Freedom of Information/Privacy Act Office (FOIA)
TO: All FOIA Officers

Power Marketing Liaison
Office of the Inspector General
Office of Public Affairs
Office of Congressional and Intergovernmental Affairs
Office of Personnel and Executive Resources
Office of Chief Financial Officer
Office of Defense Programs
Office of Energy and Efficiency and Renewable Energy
Office of Environment, Safety and Health
Office of Energy Information Administration
Office of Environmental Management
Office of Fossil Energy
Office of Nuclear Energy
Office of General Counsel
Office of Hearings and Appeals
Office of Intelligence
Office of Civilian Radioactive Waste Management
Office of Nonproliferation and National Security
Office of Security and Emergency Operations
Office of Procurement and Assistance Management
Office of Science
Office of Worker and Community Transition
Office of Finance and Accounting Policy
Office of Administration

Competitive Enterprise Institute

Subject: FOIA Search for Enron Documents

The Freedom of Information Office has received several requests for information that relates to correspondence between the Enron Corporation or any of its subsidiaries, or its executives, including, but not limited to Kenneth Lay, Linda Robertson, Jeffrey Skilling, Andrew Fastow and the Department of Energy from 1992 to March 2002.

A search was conducted of the files of the Office of the Executive Secretariat, the Office of Policy and International Affairs, and the Office of the Secretary, Deputy Secretary, Under Secretary, including the Office of Scheduling.

While reviewing the documents found responsive, from the above offices, it has been determined that other offices in the department may have documents responsive to the requests. Therefore, it is requested by this office that you immediately conduct a search of your files for any documents, letters, memorandums, e-mails, public notices, and schedules, between your office and the Enron Corporation.

Please provide your response to this request by COB Thursday June 13, 2002. If you have any questions, please contact Ms. Jeter at (202) 586-5061.



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Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

SHARED SERVICES

June 12, 2002

In reply refer to: CILR-4

Ms. Sheila Jeter
FOIA Office
Department of Energy
Washington, D.C. 20585

Dear M. Jeter:

Thank you for the letter of June 7 requesting documents under provisions of the Freedom of Information Act. Your request has been logged in as #02-042.

Specifically, you asked for information relating to correspondence between the Enron Corporation including Kenneth Lay; Linda Robertson; Jeffrey Skilling; Andrew Fastow and others with the Department of Energy between 1992 and March 2002.

You further asked that we search our files for any documents, letters, memorandums, e-mails, public notices, and schedules, between BPA and the Enron Corporation.

Ms. Marg Nelson, Acting Chief Operating Officer, has been designated as Authorizing Official for your request. Ms. Nelson has 20 working days, until July 12, to provide a response. She may be reached at mail stop MS/D-7 or by calling 503-230-5105 should you have any questions.

Sincerely,



Gene Tollefson
Freedom of Information Officer

bcc:

S. Wright - A-7

G. Tollefson - CILR-4

S. Hickok - D-7

E. Mosey - KC-7

R. Seifert - KN-WASH

J. Bennett - LC-7

C. Jacobson - LC-7

P. Mautner - LC-7

M. Van Buren - LP-7

M. Nelson - MS/D-7

Official File - CILR (EX 13-13, 02-042)

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